

Notice of Allowability

Application No.

10/069,455

Examiner

Thomas McKenzie, Ph.D.

Applicant(s)

EREZ ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments of 8/3/04.
2. ☒ The allowed claim(s) is/are 1,3-10,12-17 and 19-46.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All ☐ Some* ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 12/1/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Thomas C. McKenzie, Ph.D.
Examiner
Art Unit 1624

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Sol Sheinbein on 9/27/04.

The application has been amended as follows:

In line 11, claim 1, after the word "(CH₂)_m(heteroaryl)," please add the phrase "m being 0-5".

In line 15, claim 6, after the word "(CH₂)_m(heteroaryl)," please add the phrase "m being 0-5".

In line 14, claim 14, after the word "(CH₂)_m(heteroaryl)," please add the phrase "m being 0-5".

In line 14, claim 23, after the word "(CH₂)_m(heteroaryl)," please add the phrase "m being 0-5".

In line 10, claim 32, after the word "(CH₂)_m(heteroaryl)," please add the phrase "m being 0-5".

In line 10, claim 34, after the word "(CH₂)_m(heteroaryl)," please add the phrase "m being 0-5".

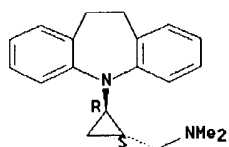
Support for these amendments are found in originally filed claims 37 and 40.

In line 3, claim 19, at the end, please add ".".

Statement of Reasons for Allowance

2. Claims 1, 3-10, 12-17, and 19-46 are allowed. The following is an Examiner's statement of reasons for allowance: Applicants requested clarification of the notice of non-compliant amendment sent to them on 7/8/04. On office action was mailed to them on 3/3/04. No amendments were received from Applicants on that date. While Norma Villarivera is an LIE in Tech Center 1600, she does not normally handle applications in art unit 1624. The Examiner can only surmise that an error in application numbers has occurred. A copy of the oath was scanned on 8/3/04. This addresses the Examiner's concern made in point #2 of the previous office action.

3. Applicants' compounds are novel over Kaiser ('133) who teaches the compound shown below. This compound has $R^1 = 2-[(\text{dimethylamino})\text{methyl}]\text{cyclopropyl}$. Applicants' limitation that R^1 is cycloalkyl does not permit a 2-(dimethylamino)methyl substituent upon this cycloalkyl ring. Applicants' amendment requiring R^1 to be hydrogen and R'' to be branched but not n-alkyl overcomes the art rejections over Buckler ('281) and Schindler ('281) made in points #9 and #10 of the previous action. The former teaches $R'' = \text{methyl}$ and this cannot be the basis of an obviousness rejection over isopropyl, Applicants smallested claimed branched alkyl group. The latter teaches that both R^1 and R'' must be alkyl.




4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

5. Information regarding the status of an application should be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free). All Post-Allowance correspondence concerning this application must be mailed to the following address:

Box Issue Fee
Commissioner for Patents
Washington, DC 20231.

Such correspondence (amendments under 37 CFR 1.312, IDS statements, formal drawings etc) also may be faxed to the Office of Patent Publications at (703) 308-5083. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.


Thomas C. McKenzie, Ph.D.
Patent Examiner
Art Unit 1624

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